

position in support of the application in a group meeting the two of them attended with Duffy, Sibbison and Robert Anderson. By the end of that meeting, though, the consensus view against approving the application prevailed. Nonetheless, Manuel says Skibine has never told her that he was upset by the denial or that he felt he had been overridden unfairly on the denial decision.

There was a split in Interior between those who wanted to rest a denial entirely on the Secretary's discretionary authority under IRA and Part 151 to take (or not take) land into trust, and those who wanted to base it on a negative two-part determination under IGRA Section 20. At that time, many Interior Department witnesses believed that the Secretary's discretion under IRA was unfettered and unreviewable; proponents of this basis for a decision – Sibbison, Skibine and the junior attorneys from the Solicitor's Office – believed such a decision would be more defensible in court because of their interpretation of the "detriment" test of Section 20. Those who wanted to rely on IGRA Section 20 – primarily Duffy and Robert Anderson – saw it as a way to send a message to congressional and other critics that DOI would apply IGRA reasonably, and accordingly, there was no need to amend IGRA or otherwise cut back on Indian gaming. Much of this debate took place while Skibine's draft denial letter was being circulated for review.

2. Skibine Drafts a Decision Letter Denying the Hudson Application Based Only Upon the Secretary's Discretion Under IRA and Part 151 Regulations

On June 28, 1995, Skibine circulated by e-mail his first draft of a letter denying the Hudson casino application.³⁸¹ In this draft, Skibine based the denial solely on the discretion

³⁸¹The addressees of the e-mail attaching the draft were Troy Woodward and Kevin Meisner of the Solicitor's Office, BIA Deputy Commissioner Hilda Manuel, and Paula Hart and
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